

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

| | | |
|--------------------------------|---|-------------------------|
| GERALDINE MCBRIDE and |) | |
| HUSBAND HAROLD MCBRIDE, |) | |
| |) | |
| Plaintiffs, |) | |
| |) | Civil Action Number |
| vs. |) | 2:06-cv-4792-UWC |
| |) | |
| WAL-MART, INC. and MIKE |) | |
| WILSON, <i>et al.</i>, |) | |
| |) | |
| Defendants. |) | |

MEMORANDUM OPINION ON MOTION TO REMAND

On November 30, 2006, this personal injury action was removed to this Court from the Circuit Court of Jefferson County, Alabama Circuit. In the notice of removal, defendant Wal-Mart contends that Plaintiffs fraudulently joined individual defendant Mike Wilson in an effort to defeat diversity jurisdiction.

In their complaint, Plaintiffs describe "Mike Wilson" as the manager of the Wal-Mart store at which the injury occurred. However, Wal-Mart has produced convincing evidence that it did not employ a Mike Wilson at the time of the incidents which gave rise to the complaint.

Apparently recognizing this misnomer, Plaintiffs have now moved the Court to

dismiss Mike Wilson as a defendant and to substitute Jeff Jay.¹

Wal-Mart has conceded that Jeff Jay is the manager of the relevant store and a resident of Alabama.

By separate order, the motion to substitute will be granted; and consequently, the motion to remand must be granted because the requisite diversity of citizenship does not exist.

By separate order, it will be done.

Done this 15th day of December, 2006.



U.W. Clemon
United States District Judge

¹Plaintiffs have also moved that this action be remanded to the state court for want of diversity jurisdiction.